

## REMARKS

Applicant acknowledges receipt of an Office Action dated December 10, 2009. Claims 13 to 17, 19, 22 to 24, and 29 are withdrawn. Claims 5, 6, 10, 12, 18, 20, 21, 25 to 28, and 30 to 33 are cancelled. Claims 34 and 35 are added. Claims 1, 2, and 4 are currently amended. Claims 1 to 4, 7 to 9, 11, 34, and 35 are pending in the application.

No new matter was added by the present amendment. Reconsideration of the application as amended is respectfully requested for the following reasons.

### Rejections under 35 U.S.C. §102

Claims 1, 2, 4, 5, 7 to 9, and 11 were rejected under 35 U.S.C. §102(b), as being anticipated by US patent No. 6,645,537 to Sweeney et al.

Sweeney et al. teach a disposable single-serve beverage filter cartridge especially for roasted ground coffee. The cartridge (10) comprises an outer container (12) with a circular rim (22). A side wall (20) has an upper section extending downwardly from the rim (22) to an intermediate section, and a tapered lower section having circumferentially spaced flutes extending downwardly from the intermediate section to the bottom wall (18). A filter element (14) sub-divides the interior of the container into two chambers (A) and (B). A beverage medium is stored in the chamber (A). A cover (16) is joined to the side wall (20) at the rim (22) to close the upper opening (24). The cover (16) is pierceable to accommodate an injection of liquid into the chamber (A) for combination with the beverage medium to produce a beverage. The filter element (14) is permeable to accommodate a flow of the beverage from the chamber (A) downwardly into the chamber (B), and the bottom wall is pierceable to accommodate an outflow of the beverage from the chamber (B) to the exterior of the cartridge. The container bottom is punctured by an outlet probe of the brewer to withdraw the beverage from chamber (B). (See abstract)

In other words, Sweeney et al. teaches a beverage cartridge which contains a beverage medium in chamber A and are insertable in a liquid injecting apparatus. When inserted in the liquid injecting apparatus, the cover of the beverage cartridge is pierced by a liquid injection device and liquid is introduced in the chamber A. The introduced liquid flows from chamber A

to chamber B while the beverage medium is prevented from flowing from chamber A to chamber B by the filter element (14). Chamber B is not designed to contain the entire introduced liquid but only a portion thereof. When liquid is introduced in the cartridge, the cartridge is placed above another brewed beverage container such as a cup. The bottom of the container is punctured by an outlet probe of the brewer to withdraw the beverage from chamber (B). The withdrawn beverage flows into the brewed beverage container. This is contrary to the claimed container.

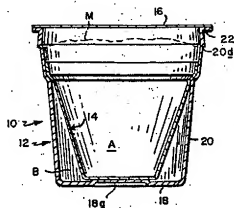


Figure 1: Beverage filter cartridge of Sweeney et al.

Neither the filter (14) defining chamber (A) nor the cover (16) include a self-sealing one-way flow control member which allows introduction of a fluid in chamber (A) when a fluid injection device is inserted therein without allowing leakage of the introduced fluid when the fluid injection device is removed therefrom. As mentioned above, the cover (16) is pierceable to accommodate an injection of liquid into the chamber (A). Sweeney et al. state that the cover can be formed of materials such as EVOH films and aluminum foil. These materials, once pierced to introduce a liquid in chamber (A), do not prevent leakage through the hole created during the piercing step. They are not self-sealing. Thus, it is compulsory in the design of the cartridge (10) that the liquid is introduced through an upper portion of the cartridge (10) and, more particularly, the cover (16) to prevent leakage. As clearly mentioned in the Office Action, to prevent liquid from flowing through the hole, the piercing member must be left in place. That teaches away from then claimed one-way flow control member.

Applicant respectfully disagrees with the Office Communication stating that the pierceable membrane-like cap (or cover) is a one-way flow control member preventing leakage of the introduced liquid. Sweeney et al. are silent about one-way flow control member allowing the introduction of a fluid in the steeping chamber without allowing leakage of the introduced fluid once the liquid injection device or the piercing member is removed from the hole.

As stated in amended claim 1, the self-sealing one-way flow control member does not allow leakage of the fluid introduced in the steeping chamber when the fluid injection device is removed from the one-way flow control member, i.e. does not extend therethrough anymore.

For introducing a liquid into chamber (A), the cover (16) is pierced with an inlet probe (28), which are part of a fluid injection device, to admit hot water into chamber (A) for infusion with the beverage medium (M) to produce a beverage.

Once pierced to provide an inlet aperture, the cover (16) taught by Sweeney et al. allows the introduction of a liquid into chamber (A). However, it does not prevent the dispensed liquid from leaking outside the cartridge through the inlet aperture, i.e. it is not self-sealing. Once the cover (16) has been pierced, it remains pierced. The cover (16) cannot prevent the liquid in the cartridge to seep through the hole that has been pierced by the infusion probe (28) since the material of which the cover (16) is made does not have any elasticity or self-sealing properties which would allow the hole to close back onto itself in order to prevent fluid leakage outside the cartridge (10), after removing the infusion probe (28).

Sweeney et al. do not teach a container for providing a liquid mixture having an inlet membrane or a self-sealing one-way flow control member allowing the introduction of the fluid into the steeping chamber without allowing the introduced fluid from leaking outside the container through the aperture provided for introducing the fluid. This is contrary to claim 1.

It is not common sense in the art to introduce a liquid into a steeping chamber through a self-sealing one-way flow control member.

Consequently, Applicant respectfully disagrees with the Office Action stating that claim 1 is anticipated by Sweeney et al. For the reasons detailed above, claim 1 is novel.

Claims 1 to 4, 7 to 9, 11, 34, and 35 depend directly or indirectly on claim 1 and are also novel. Applicant respectfully requests withdrawal of the 35 U.S.C. §102 rejection.

### **Rejections under 35 U.S.C. §103**

Claim 3 was rejected under 35 U.S.C. §103(a), as being unpatentable over Sweeney et al. in view of U.S. patent No. 5,789,025 to St. Clair.

As mentioned above, the cartridge of Sweeney et al. does not include an inlet member covering an inlet aperture, the inlet membrane allowing the introduction of a fluid into the steeping chamber and preventing the introduced fluid from leaking outside the steeping chamber through the inlet aperture when the liquid injection device is removed. In Sweeney et al., the liquid is introduced into chamber (A) through an aperture created by piercing the cover (16). As mentioned above, the cover (16) of the cartridge, made from materials such as EVOH films and aluminum foil, is pierceable to accommodate an injection of liquid into the chamber (A). These materials, once pierced to introduce a liquid in chamber (A), do not prevent leakage through the hole created during the piercing step, i.e. they are not self-sealing. It is thus compulsory in the design of the cartridge that the liquid is introduced through an upper portion of the cartridge and, more particularly, the cover to prevent leakage.

Applicant respectfully disagrees with the Office Communication stating that the pierceable membrane-like cap of Sweeney et al. is an inlet member preventing the introduced fluid from leaking outside the steeping chamber through the inlet aperture when the liquid injection device is removed. Sweeney et al. are silent about inlet members allowing the introduction of a fluid in the steeping chamber without allowing leakage of the introduced fluid.

St. Clair teaches a waterproof and breathable laminate for tents, garments, shoes, and covers. It is silent about beverage applications. It is also silent about the properties of the membrane if pierced. The laminate of St. Clair is designed for fire-resistant properties.

Thus, the combination of Sweeney et al. and St. Clair does not teach the introduction of a liquid into a steeping chamber through a self-sealing inlet member preventing the introduced fluid from leaking outside the steeping chamber through the inlet aperture.

For the above mentioned reasons, the combination of Sweeney et al. and St. Clair does not teach the claim limitation. Therefore, claim 3 is thus novel and non-obvious. Applicant respectfully requests withdrawal of the 35 U.S.C. §103 rejection.

### **CONCLUSION**

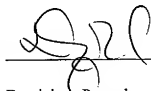
Support for the amendment is found in the original specification and claims.

The application is believed in condition for allowance. Reconsideration of the objections is respectfully requested. In the event that there are any questions concerning this amendment or the application in general, the Examiner is respectfully urged to telephone the undersigned so that prosecution of this application may be expedited.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment to Deposit Account No. 19-5113. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-5113. If any extensions of time are needed for timely acceptance of papers submitted herewith, applicants hereby petition for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-5113.

Respectfully submitted,

By: \_\_\_\_\_



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